

Environmental Protection Agency

§ 14.10

of time between the date of acquisition and the date of loss or damage.

§ 14.3 Incident to service.

In order for a claim to be allowed under this part, the EPA Claims Officer must determine that the item of personal property, at the time of damage or loss, was used by the employee as an incident to government service. An item is incident to service when possession of the item by the employee had substantial relationship to the employee's performance of duty. Whether an item is incident to service is determined by the facts of each claim. The employee has the burden of showing that the item was incident to his/her governmental service.

§ 14.4 Reasonable and proper.

EPA does not insure its employees from every loss or damage to personal property they may sustain. In order for a claim to be allowed, the item must not only have been incident to service, it must also have been reasonable and proper for the employee to possess the item at the time and place of its loss or damage. Generally, the possession of an item is reasonable and proper when the item is of a type and quantity which EPA reasonably expected its employees to possess at the time and place of the loss or damage. Consequently, items which are exceptionally expensive, excessive quantities of otherwise allowable items, personal items which are used in place of items usually provided to employees by EPA or items which are primarily of aesthetic value are not considered reasonable or proper items and are unallowable.

§ 14.5 Who may file a claim.

A claim may be filed by an employee or by his/her authorized agent or legal representative. If a claim is otherwise allowable under this part, a claim can be filed by a surviving spouse, child, parent, brother or sister of a deceased employee.

§ 14.6 Time limits for filing a claim.

A claim under this part is considered by the EPA Claims Officer only if it is in writing and received within two years after the claim accrues. The EPA

Claims Officer may consider a claim not filed within this period when the claim accrued during a period of armed conflict and the requirements of 31 U.S.C. 3721(g) are met.

§ 14.7 Where to file a claim.

An employee or his/her representative may file a claim with his/her Administrative Office or the Safety Office for the facility. The employee should complete and submit to the Administrative Office or the Safety Office a completed EPA Form 3370-1, "Employee Claim for Loss of or Damage to Personal Property." That Office then forwards the form and any other relevant information to the EPA Claims Officer, Office of General Counsel (LE-132G), 401 M Street SW., Washington, DC 20460.

§ 14.8 Investigation of claims.

The EPA Claims Officer investigates claims filed under this part. The EPA Claims Officer may request additional documentation from an employee (e.g., repair estimates and receipts), interview witnesses, and conduct any further investigation he believes is warranted by the facts of the claim.

§ 14.9 Approval and payment of claims.

(a) EPA's approval and payment of a claim is limited by the Act to \$25,000. The EPA Claims Officer considers, adjusts, determines, compromises and settles all claims filed under this part. The decision of the EPA Claims Officer is final unless reconsideration under § 14.10 is granted.

(b) The EPA Claims Officer will approve and pay claims filed for a deceased employee by persons specified in § 14.5 in the following order:

- (1) The spouse's claim.
- (2) A child's claim.
- (3) A parent's claim.
- (4) A brother's or sister's claim.

§ 14.10 Procedures for reconsideration.

The EPA Claims Officer, at his discretion, may reconsider a decision when the employee establishes that an error was made in the computation of the award or that evidence or material facts were unavailable to the employee at the time of the filing of the claim

and the failure to provide the information was not the result of the employee's lack of care. An employee seeking reconsideration of a decision must file, within 30 days of the date of the decision, a written request with the EPA Claims Officer for reconsideration. The request for reconsideration must specify, where applicable, the error, the evidence or material facts not previously considered by the EPA Claims Officer and the reason why the employee believes that the evidence or facts previously were not available.

§ 14.11 Principal types of allowable claims.

(a) *General.* A claim under this part is allowed for tangible personal property of a type and quantity that was reasonable and proper for the employee to possess under the circumstances at the time of the loss or damage. In evaluating whether a claim is allowable, the EPA Claims Officer may consider such factors as: The employee's use of the item; whether EPA generally is aware that such items are used by its employees; or whether the loss was caused by a failure of EPA to provide adequate protection against the loss.

(b) *Examples of claims which are allowable.* Claims which are ordinarily allowed include loss or damage which occurred:

(1) In a place officially designated for storage of property such as a warehouse, office, garage, or other storage place;

(2) In a marine, rail, aircraft, or other common disaster or natural disaster such as a fire, flood, or hurricane;

(3) When the personal property was subjected to an extraordinary risk in the employee's performance of duty, such as in connection with an emergency situation, a civil disturbance, common or natural disaster, or during efforts to save government property or human life;

(4) When the property was used for the benefit of the government at the specific direction of a supervisor;

(5) When the property was money or other valuables deposited with an authorized government agent for safekeeping; and

(6) When the property was a vehicle which was subjected to an extraor-

dinary risk in the employee's performance of duty and the use of the vehicle was at the specific direction of the employee's supervisor.

(c) *Claims for articles of clothing.* Claims for loss or damage to clothing and accessories worn by an employee may be allowed where:

(1) The damage or loss occurred during the employee's performance of official duty in an unusual or extraordinary risk situation;

(2) The loss or damage occurred during the employee's response to an emergency situation, to a natural disaster such as fire, flood, hurricane, or to a man-made disaster such as a chemical spill;

(3) The loss or damage was caused by faulty or defective equipment or furniture maintained by EPA; or

(4) The item was stolen even though the employee took reasonable precautions to protect the item from theft.

(d) *Claims for loss or damage to household items.* (1) Claims for damages to household goods may be allowed where:

(i) The loss or damages occurred while the goods were being shipped pursuant to an EPA authorized change in duty station;

(ii) The employee filed a claim for the damages with the appropriate carrier; and

(iii) The employee substantiates that he/she has suffered a loss in excess of the amount paid by the carrier.

(2) Where a carrier has refused to make an award to an employee because of his/her failure to comply with the carrier's claims procedures, any award by EPA will be reduced by the maximum amount payable for the item by the carrier under its contract of shipment. Where an employee fails to notify the carrier of damages or loss, either at the time of delivery of the household goods or within a reasonable time after discovery, any award by EPA will be reduced by the amount of the carrier's maximum contractual liability for the damage or loss. The employee has the burden of proving his/her entitlement to reimbursement from EPA for amounts in excess of that allowed by the carrier.